

**REMARKS**

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-2 and 4-12 are pending in the present application, with claims 1 and 7 being independent.

***Allowable Subject Matter***

Applicant notes with appreciation the Examiner's indication on page 3 of the outstanding Office Action that claims 1, 2, and 4-6 are allowed, and that claims 9-12 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims.

***Drawings***

Applicant respectfully requests that the Examiner indicate in any subsequent Office communication whether or not the replacement drawing (containing Figs. 1 and 2) submitted on February 4, 2004 has been accepted, and whether or not the drawing (Fig. 3), which was filed on May 26, 2000, has been accepted (see item 10 of the Office Action Summary).

***Claim Rejections Under 35 U.S.C. §102***

The Examiner rejected claims 7 and 8 under 35 U.S.C. §102(e) as being anticipated by Kondo (US 6,178,193). This rejection is

respectfully traversed at least for the following reasons.

Applicant amended independent claim 7 to include a feature of claim 9. Thus, Applicant respectfully submits that independent claim 7 should be considered allowable at least because, as previously submitted with respect to claim 1, because the cited art fails to teach or suggest at least the combination of elements including that a control unit sets the power control command at the inverse of the measured amplitude if the fast fading duration is higher than the time duration between the amplitude or power measurement and the emission power setting and sets the power control command at the inverse of the average of the measured amplitude if it is equal to or lower than the time duration.

Dependent claim 8 should be considered allowable at least for depending from an allowable base claim.

Accordingly, in view of the amendment made to independent claim 7, Applicant respectfully requests that the Examiner withdraw the rejection and further the claims to issue.

The claims have also been amended in an effort to correct a few minor antecedent base errors. These amendments do not narrow the claims nor do they change the scope of the subject matter.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin Geissler (Reg. 51,011) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #39,491  
for Michael K. Mutter, Reg.#29,680

MKM/ARC:tm/fjl  
0054-0208P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000